



PUBLIC EMPLOYEES' RETIREMENT BOARD

JANUARY 19, 2006

A meeting of the Board was called to order by President Carey at 8:30 a.m. Thursday, January 19, 2006. Roll call was taken with all members of the Board being present either in person or via conference phone, except Robert Griffith, who was excused. Board members and staff present were:

Carole Carey, President
Betty Lou Kasten, Vice President
Jay Klawon, Member
Troy McGee, Member
John Paull, Member
Terry Smith, Member
Melanie Symons, Counsel
Roxanne Minnehan, Interim Exec. Dir.
Linda Owen, Secretary

OPEN MEETING

Viv Hammill and Ann Brodsky, Governor's Office; Janet Kelly, Department of Administration; Jim Kerins and Kristin Jacobson, CMS; John Barrows, Montana Newspaper Association (MNA); Kathy Samson, Defined Contributions Bureau Chief, MPERA, joined the meeting.

Public Comment on any subject not on the agenda – No public comment at this time.

MINUTES OF OPEN MEETING

The minutes of the open meeting of December 22, 2005 were presented. Mr. Paull moved that the minutes of the previous open meeting be approved. Mr. McGee seconded the motion, which upon being submitted to vote, was duly carried with the six attending members voting aye.

Executive Director Hiring Sub-Committee Process – Mrs. Kasten, Executive Director Hiring Sub-Committee Chair, presented the Sub-committee's recommendations for Phase I. Ms. Symons explained that Kristin Jacobson, Jim Kerins and she met with David Ewer, Vivian Hammill, and Ann Brodsky, from the Governor's Office, and presented the Sub-committee's recommendations. The Governor's Office provided suggestions and comments regarding both content and the procedure. Ms. Symons suggested receiving comments today from the Governor's Office representatives after each item of discussion.

Executive Director Application and Supplement Screening – The rating matrix categories include:

1. Education.
2. Administrative or executive experience.
3. Retirement system experience.
4. Fiscal administration experience.
5. Legislative relations experience.
6. Personnel management experience.
7. Media/public relations experience.
8. Written communication abilities (application materials)

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Mr. Kerins explained that the years of experience are guidelines only. The Board is looking for someone who is a leader, rather than one able to do all the individual jobs of the agency. Mr. Kerins added that the Board wants someone who has a broad-based background and good practical experience dealing with a variety of issues. He agreed with Mr. Klawon that the key to this job is working with people; not necessarily someone with multiple degrees. Mr. Kerins addressed each category:

1. Education: A minor change was made to better delineate the education from the experience section of the rating criteria.
2. Administrative or executive experience: CMS provided descriptions to give everyone a common understanding to consistently apply the rating matrix. The Governor's Office's only suggested change is to clarify that number of years is a guideline only.
3. Retirement system experience: The Governor's Office's only suggested change is to clarify that number of years is a guideline only.
4. Fiscal administration experience: CMS provided descriptions to give everyone a common understanding to consistently apply the rating matrix. The Governor's Office's only suggested change is to clarify that number of years is a guideline only.
5. Legislative relations experience: CMS kept the rating content broad. The "plus" includes experience with the Montana legislature, which would be very desirable, but the definitions permit good applicants from outside the state to be considered. An amendment was suggested to the last sentence of the "plus" section as follows: "In addition to experience delineated above ("check"), includes **significant** experience with the Montana legislature ~~or congressional~~ or legislative experience with retirement programs." The suggestion was to insert the word "significant" and delete the word "congressional."

Education/Experience - Mrs. Kasten stated that the Sub-committee's recommendation was to rate education and experience separately, but consider in combination for minimum qualifications.

Referring to the "check" in #1, Mr. McGee had no problem if someone had a minor in one of the many listed degrees, **in addition** to a business degree. If it meant that any degree was okay, he had a problem with that. Ms. Jacobson explained that they were trying to define somewhat related areas of study because some degrees may be titled something other than "business."

Mr. Kerins clarified that 32 credits or more would represent a little more than a minor in business, but that could be toned down a bit. What we would be looking for is someone who has coursework equivalent to more than a minor in a business-related area. Copies of college transcripts will be requested to see if the individual received exposure in education in the business areas.

Mr. McGee was concerned with the type of degrees that will be considered and that the list was too broad. He felt it was, basically, saying any degree would be fine, and he did not think that was what the Board was trying to accomplish. Mrs. Kasten noted that the Board would be looking at minimum qualifications, and applications would be sorted for consideration or rejection. Mr. Paull felt that the process would help sort everything out.

Mr. Kerins explained that CMS researched a number of course catalogs and the list of degrees provided was considered directly related to business or public administration. While it was a broad based list of different areas, they are related. Mr. Kerins added that his recommendation came from the fact that he did not want the Board to be too limited on the minimum qualification screening.

Public Comment: Janet Kelly pointed out that often an undergraduate degree is not necessarily reflective of where a person ends up. She felt comfortable with #1 because you want to make sure you are not automatically eliminating prospective candidates that have very strong experience.

Ann Brodsky felt that the education component as written is appropriate. When you balance out both the education and experience, there is a good set of criteria being used and the process will work itself out appropriately. She also added that the quality of one's experience is important even if not necessarily being Montana legislative experience.

Vivian Hammill liked the criteria under #1, which was broad based in terms of finance, business and management. For the "plus" in #5, she recommended not limiting it to Montana legislative experience. She pointed out that many cities run large retirement programs and some of them are significantly larger than Montana's PERS or TRS. Councils that pass legislation related to those city retirement systems are as contentious as our legislature, although probably not as large, but the skills are all portable. She is also an advocate of not limiting the criteria to retirement systems because there are many other types of benefit systems.

Mr. McGee felt he made his reservations very clear. He does not think it is the proper way to go, but will go along with it, with reservations.

6. Personnel management experience: No changes except for clarifying that the number of years is a guideline only. Will be looking more to the content and the quality of the experience rather than just number of years.

7. Media/public relations experience: Minor changes such as clarifying that the number of years is a guideline only. Emphasis was taken off of media relations and refocused on constituent relations (public employees or retirees), and also the networking aspect of the job (working with the stakeholders, legislators, etc.).

8. Written communication abilities: Mr. Kerins explained this is just an assessment of the application materials themselves. Effective, concise, compelling writing will be critical parts of being successful in this job. The only change was with the supplemental questions and if they kept their responses to the suggested word limit.

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Mr. Kerins stated this screening document (Executive Director Application and Supplement Screening rating matrix) will be put on the MPERA website. The criteria are very job-related and very straightforward, and he felt the Board could be very open about this information. To document the Board's deliberations, they will have working papers such as checklists, a list of decisions made, and individual applicants' ratings in relation to these criteria. That will not be made public. *Public comment:* Ann Brodsky agreed that would be necessary. Ms. Symons added that the screening document should also be given to the Job Service to provide to applicants.

Mrs. Kasten moved to accept the Sub-committee's recommendation to rate education and experience separately, but consider in combination for minimum qualifications. Also include the amendment to the last line in #5: delete "or congressional" and add "significant" before the word "experience." Mr. Klawon seconded the motion, which upon being submitted to vote, was duly carried with the six attending members voting aye.

Job Announcement

CMS talked about changes to the vacancy announcement, made as a result of the meeting with the Governor's Office. Ms. Jacobson noted there were no changes made in #1 through #5:

6. Salary – indicate range and how it will be applied. A statement was added to #6: "The position will receive raises granted by the legislature." This was included because there had been Sub-committee discussion about the opportunity for movement beyond the negotiable salary range of \$81,505 - \$101,882 (entry to market).

Ms. Jacobson pointed out there had been some discussion about reimbursement of travel, lodging and meal expenses to applicants chose to be interviewed. The Governor's Office did not make a recommendation, but indicated paying a flat amount of up to \$500 for expenses may be better. There is no Board policy because it was determined this does not come up enough to warrant a policy. President Carey had a problem with paying someone to come for an interview. She agreed with the Governor's Office to at least limit the dollar amount. Mrs. Kasten stated this issue was presented to the full Board because it was more Board policy than what the Sub-committee should decide.

Mr. Paull was okay with paying travel, lodging and meal expenses. Mrs. Kasten agreed with President Carey that the Board should at least limit the amount. Mr. McGee agreed there should be limitations. Ms. Symons added that the Board needs to be consistent so it does not look like favoritism. Mr. Klawon said he was inclined to pay reimbursements, with a \$5,000 limit on moving expenses. Mr. Kerins suggested limiting the amount for travel, lodging and meals expenses, and relocation expenses could be negotiated. The Board agreed to leave the current language as follows: "Applicants chosen to be interviewed by the PER Board will be reimbursed at state rates for their associated travel, lodging and meal expenses." Mr. McGee would like some flexibility for negotiating relocation expenses.

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Mrs. Kasten moved to accept the job announcement recommendations as follows:

1. Photocopy of transcript will be accepted unless interviewed by the Board.
2. Note that applicant's name will become public information if interviewed by the Board.
3. Include disclaimer to Governor's office with respect to release of confidential information.
4. Include notice that selected applicants will be reimbursed at state rates for travel, lodging and meals to attend interview.
5. Include notice that reimbursement for relocation expenses will be negotiated for successful applicant.
6. Salary range and how it will be applied.

Mr. Klawon seconded the motion, which upon being submitted to vote, was duly carried with the six attending members voting aye.

Ms. Symons pointed out three more changes that had been proposed based on conversation with the Governor's Office:

--Extend deadline for keeping vacancy announcement open

--Add language regarding credit checks

--Change the date of the interviews

Changes were made on the timetable and then incorporated into the most recent vacancy announcement. Ms. Jacobson explained that, based on the original timetable, the closing date of the vacancy announcement was extended from March 3rd to March 10, 2006.

Mr. Klawon did not agree with extending the vacancy announcement posting. He also has a conflict with April 26-27, 2006 for conducting interviews. President Carey asked Ms. Kelly what dates she would be out of town. Ms. Kelly stated she would be gone March 9-13. President Carey suggested moving the schedule forward one week. Mr. Klawon agreed.

President Carey stated that, as President of this Board, she has been at this hiring process since August 2005. After more than five months, the executive director position is still not advertised the second time. They need to move on. They have legislative issues and an RFP to deal with. By the time the hiring process is finished, it will only be 6-7 months before the next legislative session. She would like to see the hiring decisions made by March 31, with the reference checks completed on the top two finalists.

Mr. McGee added that he has always felt six weeks was too long for advertising, but he had conceded to it. He would prefer five weeks, but to increase it to seven weeks was completely unnecessary. Mr. McGee felt that if the original schedule could be adjusted to ensure Ms. Kelly's and Mr. Klawon's participation, that would be acceptable.

Ms. Jacobson advised the Board that the Governor's Office thought the process was too tight and that more time was needed to screen applications and supplemental questions, as well as the time they had to review Phase 2 documents. The timeframe was extended out partly because of the background checks. Checking out-of-state candidates could take 2-3 weeks, or up to a month if checking multiple states. In addition, a tighter schedule would make it more difficult for the times when the Sub-committee and the full Board would have to meet to make decisions. There was also discussion regarding the extension of the timeframe and Mrs. Kasten's term ending, or having her remain on the Sub-committee beyond the end of March to ensure a new executive director was selected within her term.

Public comment: Ann Brodsky stated her observations about the calendar. She felt the draft seemed extremely tight and not set up to accomplish a quality hiring process, but to accommodate Mrs. Kasten's Board term. The biggest problem she observed was in the timeframe for the Sub-committee's first screening of the applications. She felt there simply was not enough time to read, think about, and discuss, all at the same time and for the first time seeing the applications, particularly when going through comprehensive application materials. She felt the Sub-committee should be given the application materials at least a week in advance or they would not have adequate time for review.

The Governor's Office thought the recommendation from CMS to advertise for this position for eight weeks was minimally appropriate. Ms. Symons pointed out that eight weeks was never mentioned until CMS said that in the meeting with the Governor. Ms. Brodsky clarified that the primary concern with the timetable was that the Sub-committee needed the application materials in advance to adequately review and rate them, so they would be prepared when they met as a group for discussion. Ms. Symons addressed her conversation with Mike O'Connor and Ms. Jacobson, with the timeframe ending in April. In that timeline, the position was to be advertised for six weeks, not eight. Their initial recommendation was to go through April, but that was not the Sub-committee's recommendation.

Regarding Mrs. Kasten's term ending, Ms. Brodsky felt she could fairly say the Governor's Office understands both the desire and the need to move on with the hiring process. They also believe that a quality process is incredibly important and in order to do that, it is important not to walk a tightrope to meet a deadline. Ms. Brodsky stated that until the Governor has named a replacement, Mrs. Kasten remains on the Board. So, if the Governor does not name a replacement until the process has been completed, Mrs. Kasten stays on. If the schedule was intended to be consolidated in order for most of it to be done by the time Mrs. Kasten's term expires, the Governor is sensitive to that. Ms. Brodsky stated she has not had a personal conversation with him about this, but the Governor is sensitive to the need for continuity in the hiring process and that a new appointment could not step into the hiring process in mid-stream. There is no successor until the successor is named.

Mr. Klawon stated he is not sure how Ms. Brodsky knows how sensitive the Governor is if she has not had a conversation with him on this particular issue. Personally, and based on his firsthand experience with the Governor, Mr. Klawon would not trust him. He felt that as soon as Mrs. Kasten's term expires, the Governor already has someone to replace her. That would be the Governor's prerogative, of course, but a new Board member would have to be brought up to speed very quickly.

Mrs. Kasten stated it was never her intent that anything be scheduled around her. She is going to reapply for her position on the Board and, apparently, that position has already been decided. Mrs. Kasten stated the first time the Board met with CMS, four weeks of advertising was on the schedule; CMS suggested six. Eight weeks had never been broached with Mrs. Kasten, Chair of the Sub-committee. Mrs. Kasten agreed with President Carey that we are continually extending this process, and we do need a director.

Due to a previous engagement, Mr. Klawon departed the meeting.

President Carey felt that she created the concern with Mrs. Kasten's term ending when she stated there would be three Board members with less than a year of experience and it takes a while to obtain an understanding of what is needed. Given that, President Carey stated that was not her only concern. Her real concern is all of the issues this Board has to face. This Board is spending all of their time submersed in this hiring process. The Board is not accomplishing any of the other things they need to do. The work is piling up, the Board attorneys are bogged down, and this agency is not moving forward. We just cannot keep extending this hiring process. As Board members, they are used to making good decisions in a short time period. They do a good job and that is why they are on the Board.

Mr. Smith stated the original timeline was scheduled to end April 21st with the selection of a new executive director. The revised schedule had it ending on May 16th. Based on the decision that needs to be made on a new executive director and the importance to the institution, he did not feel taking another 30 days would be detrimental. Mr. Smith recommended accepting the revised schedule.

Mrs. Kasten felt the revised schedule was way too long. Mr. McGee agreed. He felt Mrs. Kasten's situation was another matter, but this process is being extended for no good reason. He sees the original schedule as being appropriate. The only adjustment would be to make sure Ms. Kelly could participate. He also felt that one week for phone interviews screening was not necessary to do the job, that it could be removed and the schedule be moved up a week. Mr. McGee stated he went along with the original schedule even though he did not feel six weeks of advertising was right, but now to extend it to seven or eight weeks was not necessary. He felt the Board should stay with the original schedule with the phone interviews removed.

Mrs. Kasten added that CMS could start reference checks of the top candidates as soon as the Sub-committee identifies them. Mr. Kerins explained that they generally do reference checks after the interviews because one of the primary functions of the reference check is to confirm that what the candidate said actually happened. Generic reference checks could be done before the interview process, asking what the person had done as their job, but valuable confirmation information would be missed. Mrs. Kasten stated that, not for her benefit, but for the benefit of the hiring process, we need to move on.

Mr. Kerins explained that a background check is an actual criminal record check and there is, typically, a two-week turnaround for that process for people in-state. For candidates out-of-state, it could take up to three weeks. The reference checks take, minimally, one week. The candidates could be notified at the time of setting up an interview that reference checks will be conducted. At the interview, the candidate should be asked to sign a reference release for notifying current and former employers. Ms. Jacobson stated there are a variety of ways to do this. They are just trying to make sure the process is the best it can be to obtain the best possible candidate.

Mr. Kerins clarified that as soon as the Sub-committee identifies who they want to interview, CMS would initiate the background checks so, prior to the interviews, the Board will have that information. CMS would conduct reference checks on only the top two or three candidates. The point of doing reference checks after the interview was to have discussion with the current or former employers about what that person told you in the interview. This is a very flexible process for CMS, but they were trying to logically sequence it so the Board would have the information in their hands as soon as possible. Mr. Paull felt the Board should have the background check information in hand, on the top 2-3 candidates, before they conduct the interviews.

Ms. Jacobson addressed her concern with the original timeline regarding the one-day allotted for the Sub-committee to screen the applicants. She felt that was excruciatingly tight and was not sure it was doable. Then it was pushed forward to accommodate Ms. Kelly's participation. In reviewing the costs for advertising, which are extremely high, Ms. Jacobson felt that if the Board was going to that expense, the job should be advertised for a longer length of time to allow for the advantage of doing a nationwide search. These were some of the considerations addressed when reviewing the timeline. Also, when the job posting ends, time needs to be allowed for CMS to gather the applications.

Ms. Symons stated that, since the last Sub-committee meeting, staff and CMS, with input from the Governor's Office, have tried to construct a workable timetable. Mr. McGee voiced his concern that the Sub-committee had not seen these changes. He thought the discussions today were recommendations from the Sub-committee. Ms. Symons explained that the timetable ending April 21st is what the Sub-committee decided to bring to the full Board. Her understanding was

they did not necessarily recommend it totally, but it was what they would present. The revised timeline ending May 16th was constructed by Ms. Symons and CMS after meeting with the Governor's Office. The Sub-committee has seen one timeline, but not the other until the same time the other Board members did. Mrs. Kasten stated that, in essence, the Sub-committee has seen the different steps that would be included in the process. They did not agree with the timetable. The revised timetable is even longer than they had hoped. She had hoped to condense or eliminate items from the previous timetable presented at the January 11th meeting. However, the revised timetable was because of the Governor's recommendations, not the Sub-committee's recommendations, and Ms. Kelly had not mentioned she would be gone when the Sub-committee reviewed the original timetable. Mrs. Kasten stated the Sub-committee would not have recommended the revised timetable being presented.

Mr. Smith noted that the revised timetable was based on the work of CMS, Ms. Symons, and recommendations from the Governor's Office. Ms. Symons added it was also premised on Ms. Kelly letting her know, after the Sub-committee meeting last week, that she would not be able to meet the March 10th date, which was a key date. Several different scenarios were considered in trying to shorten or expand the six-week period. A meeting with the Governor's Office resulted in a revised timetable based on all of those factors and is a recommendation to everybody to address all concerns. It did not come from the Sub-committee. President Carey had concerns with Mr. Klawon not being present for the interviews. She felt it was necessary for the entire Board to participate.

Ms. Kelly apologized for not thinking about her travel plans until relatively late during the meeting on January 11th. She did not say anything at that point because the Sub-committee, in its discussion of the proposed timetable, was very compressed. She was puzzled with how we would be able to get all of the materials and the vacancy announcement out, the day after this meeting. Based upon the discussion of the component parts, the timetable was not discussed in great detail. She had many questions in her mind as to the original timetable and felt it highly unlikely it would end up being the timetable. She did not see how it was possible to get all of the screening done and get back to the Sub-committee in one day. Ms. Kelly added that her travel plans were not intentionally withheld to create additional problems for the Board. Whatever the Board decides on the timetable is their decision, but she thinks it is too compressed. Mr. Paull stated he has never done anything like this before and with CMS being the expert in this field, he would have to go along with their recommendations.

Mr. Smith moved to accept the MPERA Executive Director Recruitment and Selection Process/Timeline January 2006 as revised. Mr. Paull seconded the motion. Discussion: Mr. McGee stated he was going to vote against the motion because it was neither necessary nor desirable, and no matter how impressive CMS is, from his experience over the years, it is not necessary to extend the timeline. He felt the timeline needs to be compressed somewhat, that adding another month is not necessary. The only thing Ms. Kelly mentioned that was of some concern to him was the one-day screening of applications, but he felt the Sub-committee could figure out how to make that work. Copies of the applications could be made as they arrive and evaluations could be started in that manner. Mrs. Kasten concurred with Mr. McGee.

Mr. McGee added that although he is not overly concerned with Mrs. Kasten's situation, it would be nice if she were more involved than what the revised timetable indicates. If the Board goes with the revised timetable Mrs. Kasten would be out of the picture and the Board would have a new Board member who knows nothing about this operation in many respects. Mr. Smith and Mr. Paull are both doing good jobs, but even they have been here a relatively short period of time compared to some Board members.

Mr. Smith believes the Governor sees Mrs. Kasten's value to this Board and to the selection process, and that is why Ms. Brodsky stated the Governor would stand by his word to maintain continuity, which implies leaving Mrs. Kasten in office until this process has finished. Mrs. Kasten pointed out that is not what the Governor said. Mr. Smith added that Ms. Brodsky did not flat out say Mrs. Kasten would be left in office, but she implied it by what she said, and he believes the Governor's Office will stand by their word and what they say. As for the timetable, Mr. Smith felt there were so many parties involved, it was not a good idea to try to compress it.

There being no public comment, President Carey called for the question. Upon being submitted to vote, the motion failed with Mr. Smith and Mr. Paull voting aye, and Mr. McGee, Mrs. Kasten, and President Carey voting nay.

Ms. Symons provided a recommendation on the timeline, since it was clear the Board wants the timeline shorter rather than longer. The Board could choose a couple of "end at" dates and let the Sub-committee determine a new timeline that works with "end at" rather than having the full Board address every single item again. This way the Sub-committee could make it workable so we can move forward. Mrs. Kasten suggested on the original timetable, eliminating the week for phone interviews, extending the Sub-committee screening for a couple of days, not including the one day for a screening meeting, and then make the decision on the top three candidates after their 20-minute presentations, rather than waiting a month to make a decision. Then do the reference checks. Ms. Symons felt, in addition to that, more people were in favor of having the Sub-committee review the applications individually, rather than seeing them first off as a group. Maybe this could be combined somehow with the revised timeline. Although Mr. McGee felt the applications could be distributed as they arrive, Ms. Kelly felt they should be reviewed together so one was in the same mind set for all of the applications. Mr. McGee agreed.

Ms. Jacobson noted that since it was decided not to do the brief screening phone interviews, perhaps the Sub-committee could conduct their group screening for minimum qualifications and the supplemental questions on the week of March 10-17. This would speed up the process a bit, but still allow more time to do thoughtful analysis of the supplemental questions and other screening criteria. President Carey reiterated that Ms. Kelly should be available for this, so it would not be done until after March 13. Ms. Kelly confirmed that she would be back by then.

Mr. Kerins suggested that if the vacancy announcement closing date is backed up to March 2 or 3, CMS should have everything in-hand by March 8 and they could get the materials to Ms. Kelly prior to her leaving. Then the Sub-committee could meet somewhere between March 14-17, fitting into everyone's schedule. Ms. Kelly confirmed it would work for her, too.

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Ms. Symons was confused with what happens after the Board presentations, if there will be reference checks after the presentations. Mrs. Kasten thought the background checks would be done as soon as the candidates were pared down. If they are going to be brought before the Board, they need the background checks started. The reference check would be only on the candidates considered for hire, with the understanding that the Board would negotiate salary and expenses with the successful candidate. Mr. Kerins added that when those reference checks are done after the interviews, a lot more information could be gleaned from former employers.

Mr. Kerins summarized that the job announcement will close on March 2, and the information will be distributed to the Sub-committee members March 6-7, and then the Sub-committee will meet somewhere between March 14-17 to do the one-day screening of applications and supplemental questions. From there, the top candidates will be identified, interviews will be arranged, and criminal background checks will be initiated. Mrs. Kasten would like the Board to make a decision after the candidates had given their 20-minute presentations so she does not have to make another trip back to Helena for that. Mr. Kerins noted that if reference checks are done after the interviews and presentations, there might be a lag time, but advising the Board on the outcome of the reference checks and then making a decision are certainly things that could be dealt with via a conference call. He recommended doing the reference checks prior to offering the job because it is very difficult and awkward to have to retract a job offer. Mrs. Kasten stated she wants to make a decision on the candidate on whatever day the presentations to the Board are completed, and then if you want to wait 2-3 days before notifying the candidate after the reference checks have come in, that is fine, but she does not want to let the decision on the three candidates languish. Mr. Kerins felt that Mrs. Kasten's suggestion was very doable and appropriate, and probably the best time to make a decision on the top candidate, when it is fresh. At that time, there can also be a consensus on candidate #2 and #3.

Mr. McGee asked if the Board might possibly interview up to five candidates. Mr. Kerins clarified that the Board may interview 5-6 people. After those interviews, then the Board will try to narrow it down to 2-3 people to do presentations. Ms. Kelly stated it seems to be a reasonable process.

Mrs. Kasten made a motion to take the original timetable and compress it so the Board makes their decision on hiring on the same day as the 20-minute presentations to the Board (March 31). After that, reference checks will be completed on candidates #1, #2, and #3, and the final candidate will be notified within 2-3 days. Discussion: Mrs. Kasten reiterated that a decision will be made by the end of March or first of April. Ms. Kelly stated this seemed reasonable and she was in agreement, but although well-intentioned, things may change for various reasons, such as receiving fewer or more applications than anticipated. Ms. Kelly also noted the vacancy announcement reads: "Applications must be received by 5:00 p.m. on the closing date." She suggested changing that to read: "**All application materials** must be received..." because in the event they did get the application in by 5:00 p.m., but the material was not there, that could present a problem. Everyone agreed. Mr. McGee added that although there may be some unexpected reason for changing the timeline, it will be reviewed at that time. There being no more comment from the Board or the public, President Carey called for the question. Mr. McGee seconded the motion, which upon being submitted to vote, was duly carried with the five attending members voting aye.

Public comment: John Barrows, MNA, stated he could not attend the rest of the meeting, but wanted to address the Board before he departed. In dealing with item “G” on the agenda, “Interview Process,” and item “J” on the agenda, “Determine open meeting/open record issues,” which include the various steps and the public’s participation in it, Mr. Barrows noted that almost every aspect is closed to the public. The only thing that is really open to the public are the names of the three finalists and a presentation made by those finalists to the Board and public. Mr. Barrows felt the public open meeting laws and the public record laws are very clear on these subjects. He had great concern that the public was being shut out of this process. He would like the Board to give the public’s right to know, to participate, and to observe its due weight, and that this process needs to be open to the public much more than it is now. Ms. Symons clarified that the names of everybody who will be interviewed by the Board will be released with a biographical summary of who they are and their work experience. The public is invited to attend the presentations given by the three finalists.

Mr. Barrows felt there is a definite interest in a position of this magnitude and the public would have an interest in the applicant pool. A strong argument can be made once information hits the Governor’s Office on whether or not it remains private. Mr. McGee noted that material provided to the Governor is going as confidential material. Ms. Brodsky did not think the Governor has the authority to simply release private information. It is a constitutional test that applies both to the Board and the Governor. The public’s right to know is trumped by the right of privacy. Mrs. Kasten recommended the Board follow their legal counsel’s advice.

Vacancy Announcement

On the Job Order Detail, Ms. Kelly suggested removing all of the language under “Additional Salary Info” except for the sentence: “Pay will be set within the above salary range, based on qualifications.” The additional language could be confusing unless one is an employee of the state. Mr. McGee agreed. Ms. Symons added that the Sub-committee had discussed and voted to keep the more detailed language. Mrs. Kasten recalled the Sub-committee considering the additional language when the vacancy announcement listed only the minimum salary, but now that it states a salary range, the additional language could be eliminated. Mr. McGee moved to approve the Job Order Detail as amended. Mr. Paull seconded the motion, which upon being submitted to vote, was duly carried with the five attending members voting aye.

Ms. Symons summarized the changes to the Vacancy Announcement/Job Order Detail as discussed:

- The closing date will be changed back to March 2, 2006.
- Job applications will go to either the local Montana Job Service Center or CMS.
- Under “Special Information,” add annual and sick leave benefits because there is some concern the retirement and health care benefits are not sufficient.
- Selected applicants will receive reimbursement at state rate for travel, lodging and meals to attend interview.

- Reimbursement for relocation expenses for successful applicant to be negotiated.
- Applicants will be informed of background and reference checks.
- Applicants will be informed that the Governor may request application materials.
- Credit checks have been added, at CMS's suggestion. Because this is a position with fiduciary responsibilities, CMS felt it was important if a background or reference check raised a red flag.

Under "Special Information" it says: "Interviews of finalists will be held March 29-31, 2006. Mr. Kerins suggested deleting the sentence, which is typically not in a vacancy announcement. Ms. Symons disagreed because the Sub-committee wanted the applicants to know up front when the interviews will take place so they can plan their time around those dates. It was suggested to add "subject to change" or "on or about." Mrs. Kasten agreed that the Board wants to be as definite as they can be and the applicants can decide if the dates will work for them. Mrs. Kasten would like interviews scheduled around the March 30 Board meeting so it will be convenient for everyone. Mr. Kerins suggested: "Applicants must be available on March 29, 30, and 31, 2006."

Other than the revised supplemental questions and the addition of question #5, that was all of the changes to the Job Order Detail. Mrs. Kasten pointed out the Sub-committee had not approved the fifth question.

Mr. McGee moved to approve the Job Order Detail as amended. Mr. Paull seconded the motion, which upon being submitted to vote, was duly carried with the five attending members voting aye.

Application Review and Supplemental Questions

Mr. Kerins advised the Board of minor changes due to input from the Governor's Office. The word limits and screening criteria will be changed as discussed.

Q. #1 – Program management and administration - include more specific language to clarify the applicants' methodology and thought process.

Q. #2 – Legislative matters - clarify what we are looking for. Basically, state the duties and identify their background in providing research, consultation and support.

Q. #3 – Personnel management background - fairly unchanged. Reference required competencies or behaviors.

Q. #4 – Promoting programs, educating individuals, negotiating, preparing speeches – focus on dealing with constituents, networking, building relationships, rather than on media/public relations.

Q. #5 – This addition is a significant change. Determine applicant's analytical ability; how they analyze information, make recommendations, define issues, etc.

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Mr. McGee thought all of the questions were very good. Mrs. Kasten noted that the Sub-committee had decided there would be only four questions in order to keep the applications more condensed, and then bring something like #5 into the interview questions. Ms. Jacobson stated that the Governor's Office felt question #5 would add a little extra to the screening process and provide behavioral indications on how an applicant approaches research, analysis and decision-making.

Regarding limiting responses to Q#1 to approximately 800 words and responses to Q#2, #3 and #4 to approximately 400 words, it was the consensus of the Board to change "approximately 800/400 words" to "800/400 words **or less**."

Mr. McGee moved to approve supplemental questions as amended. Mr. Paull seconded the motion, which upon being submitted to vote, was duly carried with four of the attending members voting aye, and Mrs. Kasten voting nay.

Rating Matrix for Responses to Supplemental Questions – The Sub-committee had discussed including probing questions in the interview process. CMS will help develop probing questions that will be fair to all applicants.

Public Comment: Ms. Kelly added that probing questions are not necessarily additional questions. They are an opportunity to make sure answers to primary questions are satisfactory.

Mr. McGee moved to approve the supplemental questions and the supplemental screening worksheet. Mr. Paull seconded the motion, which upon being submitted to vote, was duly carried with the five attending members voting aye.

Interview Process

Janet Kelly's input into hiring decision – Ms. Symons pointed out it was determined that, according to past minutes, Ms. Kelly was a voting member on the Sub-committee. Understanding she is not a Board member and cannot vote, the Sub-committee discussed whether Ms. Kelly would be done after the Sub-committee is done, or whether she sits in on the interviews.

Mr. McGee understood that Ms. Kelly would be present for the interviews and provide her input, but would have no voting capabilities. Ms. Kelly agreed. The Board determined that Ms. Kelly will sit in on the interviews, provide her input, and then depart. Ms. Kelly's input can help determine the top three candidates who will give presentations. However, the final hiring is an executive action and will be strictly the Board's decision.

The Sub-committee had discussed including probing questions in the interview process. CMS will help develop probing questions that will be fair to all applicants. Ms. Kelly added that probing questions are not necessarily additional questions. They are an opportunity to make sure answers to primary questions are satisfactory.

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No public comment.

Mr. Paull moved that Janet Kelly's input into the hiring process be given to the full Board after the in-person interviews are conducted. Mr. McGee seconded the motion, which upon being submitted to vote, was duly carried with the five attending members voting aye.

Decision Process

Advertisement of vacancy announcement – Ms. Jacobson noted the expense involved with advertising in the Wall Street Journal (WSJ). It is a high circulation, but at a cost of \$2,700 for a one day ad. The Board may consider using the WSJ online posting for 30-days instead. Mr. Smith did not feel 10% of salary (of the executive director) was too much to pay for total advertising for such an important position.

Mr. Smith moved to limit the advertising budget to \$7,500 for the executive director position. Mr. Paul seconded the motion.

Mr. McGee and Mrs. Kasten felt that \$6,000 would be sufficient. *Public comment:* Ms. Kelly stated this would be a one-time cost and the Board may want to provide more flexibility to CMS for advertising costs.

The motion, which upon being submitted to vote, failed with Mr. Smith and Mr. Paull voting aye, and Mrs. Kasten, Mr. McGee and President Carey voting nay.

Mr. McGee moved to approve a \$6,000 advertising budget. Mrs. Kasten seconded the motion, which upon being submitted to vote, failed with Mrs. Kasten voting aye, and Mr. McGee, Mr. Paull, Mr. Smith, and President Carey voting nay.

Mrs. Kasten did not feel it was necessary to increase the advertising budget. Other Board members had concern with eliminating some of the important advertisement locations. The Board determined it would be best to increase the advertising budget and CMS would include as many ads as possible within that budget, as well as using the WSJ online posting instead of the one-day WSJ ad. Mr. McGee moved to limit the advertising budget to \$7,000. Mr. Smith seconded the motion, which upon being submitted to vote, was duly carried with four of the attending members voting aye, and Mrs. Kasten voting nay.

Wording of advertisement/cost – It was the consensus of the Board that CMS would make the ad 55 words or less. If there was a word/cost limit in a local ad, CMS would limit words as they felt necessary.

Open Meeting/Open Record Issues – Ms. Symons reiterated that John Barrows (MNA) and his attorney, John Shontz, feel that all issues should be open to the public. Ms. Symons noted there is not an absolute, black letter law decision that ensures her advice to the Board would be upheld 100%. It has been addressed in bits and pieces by the Montana Supreme Court, but never as a whole as far as she could find. The Board needs to balance an individual's right of privacy with the public's right to know. Ms. Symons stated, in her estimation, the individual's right to privacy, with respect to their applications, is far greater than the public's right to know. Applicants may not know for sure they want the job, they may not want their current employer to know they are applying, and there may be information on their application that is private to applicants. The same applies to the responses to the supplemental questions, identity of who meets minimum qualifications, review of applications and supplemental questions, initial interview screening, and the interviews. Once the top candidates are determined, then the public can know. The presentations would be open to the public.

The Board does not want to do anything that may discourage someone from applying. When the Board has determined who the top candidates are, the public's right to know is greater. Ms. Symons added that the newspaper reporters are advocating for a different interest, and she is providing the Board with the best advice she can to make the right decision. If they give out this information, it should be by court order or they could be violating privacy rights, as well as jeopardizing the whole interview process. If the interviews were open, candidates could listen to other candidates to pick up pointers on what to say or not say.

Public Comment – Ann Brodsky noted that what the Board is proposing is consistent with discussions she has had with other attorneys. Ms. Brodsky felt that in current Montana law, there is an expectation of privacy that the Montana Supreme Court affirms in applications, names, and application materials.

Mrs. Kasten moved to approve the open meeting issues as recommended:

- Applications – No
- Responses to supplement questions - No
- Identity of applicants - No
- Identity of applicants who meet minimum qualifications - No
- Review applications and supplemental question responses - No
- Initial interview screening - No
- Interviews - No
- Presentations – Yes

Mr. McGee seconded the motion, which upon being submitted to vote, was duly carried with the five attending members voting aye.

Determine Next Steps

Advertise Position from January 20 – March 2, 2006.

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Have another Sub-committee meeting to discuss Phase 2, which is preparing interview questions and a grading matrix. Ms. Symons suggested that CMS prepare draft questions to focus on. Ms. Jacobson said they plan to have draft interview questions available by February 3rd, for distribution prior to the next Sub-committee meeting.

Mr. McGee departed the meeting.

Next Personnel Sub-Committee Meeting – Monday, February 6, 2006.

Ms. Symons noted that at some point the meeting needs to be closed to discuss the interview questions and model responses. If this were discussed in an open meeting, someone in Helena interested in the job would have the advantage of listening over someone in, perhaps, New York. Mrs. Kasten and Ms. Symons will work on the agenda and determine what will be open or closed.

ADJOURNMENT

There being no further business to come before the Board at this date, Mrs. Kasten made a motion to adjourn the meeting. Mr. Paull seconded the motion, which upon being submitted to vote, was duly carried with the four attending members voting aye. The next personnel Sub-committee meeting is tentatively scheduled for Monday, February 6, 2006, at 1:30 p.m.